



LODI CITY COUNCIL

Carnegie Forum

305 West Pine Street, Lodi

AGENDA – SPECIAL MEETING

Date: March 29, 2006

Time: 6:00 p.m.

For information regarding this agenda please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

A. Roll call

B. Public Hearings

Res. B-1 Public hearing to consider adoption of resolution levying annual (2006) assessment for the Lodi Tourism and Business Improvement District (LTBID) and confirming the LTBID 2006 Annual Report (as approved by Council March 15, 2006) (CM)

C. Adjourn to Special Joint Meeting of the Lodi City Council and Redevelopment Agency

(RE: ITEM C-1; See March 29, 2006, agenda for Special Joint Meeting of the Lodi City Council and Redevelopment Agency)

Ord. C-1 Joint Meeting of the Lodi City Council and Redevelopment Agency to discuss and provide
Ord. direction to staff regarding introduction of ordinances to limit Lodi's use of eminent domain
(Introduce) (through the City of Lodi or the Redevelopment Agency) to acquisition property that will be
put to a municipal use (CA)

D. Regular Calendar

D-1 Provide direction with regard to a request from Council Member Mounce to declare "Livable, Lovable Lodi" the official City motto

NOTE: This item appears on the agenda at the request of Council Member Mounce

D-2 Provide direction with regard to a request from Council Member Mounce on whether to return with legal analysis of the proposal to display the National motto, "In God We Trust," in the Council Chamber

NOTE: This item appears on the agenda at the request of Council Member Mounce

D-3 Provide direction with regard to a request by Council Member Beckman to schedule a town hall meeting to receive public comments concerning alternatives to pay for PCE/TCE remediation

NOTE: This item appears on the agenda at the request of Council Member Beckman

D-4 Provide direction with regard to a request by Council Member Beckman regarding amending the General Plan to include a greenbelt area

NOTE: This item appears on the agenda at the request of Council Member Beckman

D-5 Provide direction with regard to a request by Mayor Pro Tempore Johnson to discuss the future use of the maintenance shop at Hutchins Street Square and its possible use as a Hospice facility

NOTE: This item appears on the agenda at the request of Mayor Pro Tempore Johnson

- D-6 Provide direction with regard to a request from Mayor Pro Tempore Johnson for a Council-sponsored quarter-cent sales tax increase to pay for public safety and/or open space acquisition (CM)
NOTE: This item appears on the agenda at the request of Mayor Pro Tempore Johnson
- D-7 Provide direction with regard to a request from Mayor Hitchcock regarding coordination of requests by Council Members to place items on the agenda
NOTE: This item appears on the agenda at the request of Mayor Hitchcock

E. Adjournment

Pursuant to Section 54956.2(a) of the Government Code of the State of California, this agenda was posted at a place freely accessible to the public 24 hours in advance of the scheduled meeting.

Susan J. Blackston
City Clerk

*****NOTICE: Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.*****



LODI CITY COUNCIL

Carnegie Forum

305 West Pine Street, Lodi

AGENDA – SPECIAL MEETING

Lodi City Council / Redevelopment Agency

Date: March 29, 2006

Time: 6:00 p.m.

For information regarding this agenda please contact:

Susan J. Blackston

City Clerk/Secretary

Telephone: (209) 333-6702

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SPECIAL JOINT MEETING

Lodi City Council / Redevelopment Agency

A. Roll call

B. Regular Calendar

(RE: ITEM B-1; See March 29, 2006, Lodi City Council Regular Meeting agenda)

Ord. B-1 Joint Meeting of the Lodi City Council and Redevelopment Agency to discuss and provide
Ord. direction to staff regarding introduction of ordinances to limit Lodi's use of eminent domain
(Introduce) (through the City of Lodi or the Redevelopment Agency) to acquisition property that will be
put to a municipal use (CA)

C. Adjournment

Pursuant to Section 54956.2(a) of the Government Code of the State of California, this agenda was posted at a place freely accessible to the public 24 hours in advance of the scheduled meeting.

Susan J. Blackston
City Clerk/Secretary

****NOTICE:** Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.**



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Public Hearing to consider adoption of resolution levying annual (2006) assessment for the Lodi Tourism Business Improvement District and confirming the Lodi Tourism Business Improvement District 2006 Annual Report (as approved by Council March 15, 2006)

MEETING DATE: March 29, 2006

PREPARED BY: Management Analyst, City Manager's Office

RECOMMENDED ACTION: Conduct Public Hearing to consider adoption of resolution levying annual (2006) assessment for the Lodi Tourism Business Improvement District and confirming the Lodi Tourism Business Improvement District 2006 Annual Report (as approved by Council March 15, 2006)

BACKGROUND INFORMATION: The Lodi Tourism Business Improvement District 2006 Annual Report was presented and approved by the City Council on March 15, 2006. The Council established March 29, 2006 as the Public Hearing date during which time the public would have an opportunity to present written or oral protests to the assessment being proposed. The format and manner of protests shall comply with Streets And Highways Code Sections 36524 and 36525. The Public Hearing is established pursuant to Section 36535 of the California Streets and Highways Code.

Pursuant to Lodi Municipal Code chapter/section 12.07.080: *All of the assessments imposed pursuant to this chapter shall be reviewed by the City Council annually, based upon the annual reports prepared by the advisory board appointed pursuant to this chapter and Sections 36530 and 36533 of the California Streets and Highways Code. The annual report shall include a budget for operations and a detailed identification of the marketing efforts to be undertaken by the LTBD for the ensuing calendar year. (Ord. 1753 § 1 (part), 2004)*

Streets and Highway Code 36535 (c) states: *At the conclusion of the public hearing, the City Council may adopt a resolution confirming the report as originally filed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the report.*

FISCAL IMPACT: The Lodi Tourism Business Improvement District was established in order to administer marketing programs to promote the City of Lodi as a tourism destination and to fund projects, programs, and activities that benefit hotels within the city of Lodi. Funding from the assessment is projected to raise \$177,328 for the LTBD during the City's 2005-06 fiscal year. The City's administration fee will be approximately \$8,866. As hotel rooms are added with anticipated development, these revenues will increase accordingly.

APPROVED: _____
Blair King, City Manager

FUNDING AVAILABLE: As collected by the City on behalf of the LTBD. A 5% administrative fee is retained for collection services.

Ruby Paiste, Interim Finance Director

Janet L. Hamilton
Management Analyst

Attachments

cc: Nancy Beckman, LTBD Executive Director

Lodi Tourism Business Improvement District
Levy of Annual Assessment
2006

Lodi Municipal Code:

12.07.090 Levy of assessment-Amount.

The proposed LTBD will include all hotels within the city of Lodi. The assessment shall be levied on all hotels, existing and future, within the city of Lodi based upon **three percent of the gross short term room rental revenue**. Except where funds are otherwise available, an assessment will be levied annually to pay for the improvements and activities within the area and will be collected quarterly based on three percent of the gross short term room rental revenues for the previous quarter. New hotels within the boundaries will not be exempt from the levy of assessment pursuant to Section 36531 of the California Streets and Highways Code. Assessments pursuant to the LTBD shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax. (Ord. 1753 § 1 (part), 2004)

The following hotels are currently included in the LTBD. Any new establishments to open in the future will be included as well:

Wine & Roses
Del Rancho Motel
The Holiday Inn Express
Star Hotel
Budget Inn of Lodi
Comfort Inn - Lodi
Lodi El Rancho Motel
Modern Motor Lodge
Wine Country Inn
Rancho Grande Motel
Traveler's Hotel
Viking Motel
Royal Host Inn
Economy Inn
Main Hotel

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LODI CONFIRMING THE 2006 ANNUAL REPORT FOR THE
LODI TOURISM BUSINESS IMPROVEMENT DISTRICT AND
LEVY OF ASSESSMENT

=====

WHEREAS, Lodi Tourism Business Improvement District was established October 20, 2004, by Council adoption of Ordinance No. 1753; and

WHEREAS, the Annual Report, as required by Streets and Highways Code §36500, has been submitted to the City Council by the Board of Directors of said Improvement District; and

WHEREAS, a public hearing was held as required by Streets and Highways Code §36534 on March 29, 2006, in the City Council Chambers at Carnegie Forum, 305 West Pine Street, Lodi, California, at 7:00 p.m., or as soon thereafter as possible, to consider protests to the assessment levy.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

- 1) That the required public hearing was duly held, at which time the public was allowed to present written or oral protests to the levy of assessment for Lodi Tourism Business Improvement District.
- 2) That a majority protest as defined in the Streets and Highways Code §36525 was not made.
- 3) That the 2006 Annual Report as submitted on March 15, 2006, by the Board of Directors of the Lodi Tourism Business Improvement District to the City Council is hereby confirmed as originally filed.
- 4) That the confirmation of the report and adoption of this resolution constitutes the levy of the assessment as contained in the Annual Report for the calendar year 2006.

Dated: March 29, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a special meeting held March 29, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-_____

PROOF OF PUBLICATION

(2015.5 C.C.C.P.)

STATE OF CALIFORNIA

County of San Joaquin


I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily except Sundays and holidays, in the City of Lodi, California, County of San Joaquin and which newspaper had been adjudicated a newspaper of general circulation by the Superior Court, Department 3, of the County of San Joaquin, State of California, under the date of May 26th, 1953. Case Number 65990; that the notice of which the annexed is a printed copy (set in type not smaller than non-pareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereto on the following dates to-wit:

March 21st

all in the year 2006.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Lodi, California, this 21st day of March 2006.


Signature

This space is for the County Clerk's Filing Stamp

Proof of Publication of
Resolution No. 2006-43
A Resolution of the Lodi City Council Approving the
Lodi Tourism Business Improvement District 2006
Annual Report; Declaring Its' Intention to Levy Annual
Assessment, and establishing Public Hearing Date

NOTICE OF PUBLIC HEARING
RESOLUTION NO. 2006-43

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE LODI TOURISM BUSINESS IMPROVEMENT DISTRICT 2006 ANNUAL REPORT; DECLARING ITS' INTENTION TO LEVY ANNUAL ASSESSMENT, AND ESTABLISHING PUBLIC HEARING DATE

WHEREAS, the Lodi Tourism Business Improvement District was established October 20, 2004, by Council adoption of Ordinance No. 1753, and as amended by Ordinance 1756; and

WHEREAS, the Annual Report as required by Streets and Highways Code §36500 et seq., has been submitted to the Council by the Board of Directors of said improvement area.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

1. The 2006 Annual Report is hereby received and approved as submitted, said Report being on file in the City Clerk's Office.

2. Establishes March 29, 2006, in the City Council Chambers, at Carnegie Forum, 305 West Pine Street, Lodi, California, at 6:00 p.m., or as soon thereafter as possible, as the date, place, and time to hold the public hearing required by Streets and Highway Code §36534.

3. It is the intention of the City Council to levy and collect assessments within the Lodi Tourism Business Improvement District for calendar year 2006 (the Area's fiscal year).

4. The proceeds from the Lodi Tourism Business Improvement District assessment shall be used to administer marketing programs to promote the City of Lodi as a tourism destination and to fund projects, programs, and activities that benefit hotels within the City of Lodi. The boundaries of the Lodi Tourism Business Improvement District shall be the boundaries of the City of Lodi. Refer to the Report on file in the Lodi City Clerk's office for a full and detailed description of the improvements and activities, boundaries, and proposed assessments for the 2006 fiscal

5. At the time of the public hearing, written and oral protests may be made. The form and manner of protests shall comply with Streets and Highways Code §§36524 and 36525.

Dated: March 15, 2006

I hereby certify that Resolution No. 2006-43 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 15, 2006, by the following vote:

AYES: COUNCIL MEMBERS - Hansen, Johnson, and Mounce

NOES: COUNCIL MEMBERS - None

ABSENT: COUNCIL MEMBERS - Mayor Hitchcock

ABSTAIN: COUNCIL MEMBERS - Beckman

SUSAN J. BLACKSTON
City Clerk
March 21, 2006 - 05511652

5511652



***Please immediately confirm receipt
of this fax by calling 333-6702***

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: NOTICE OF PUBLIC HEARING on March 29, 2006 to consider Lodi Tourism Business Improvement District levy of proposed assessment for fiscal year 2006 and confirmation of Annual Report.

LEGAL AD

PUBLISH DATE: March 18, 2006

TEAR SHEETS WANTED: Three (3) please

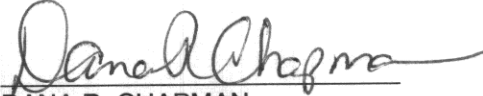
SEND AFFIDAVIT AND BILL TO: SUSAN BLACKSTON, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: March 16, 2006

ORDERED BY: SUSAN J. BLACKSTON
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK


DANA R. CHAPMAN
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS DIANE Faxed to the Sentinel at 369-1084 at 11:00 AM (time) on 3/16/06 (date) 2 (pages)
Phoned to confirm receipt of all pages at 230 (time) JLT DRC JMP (initials)



DECLARATION OF MAILING

**PUBLIC HEARING on March 29, 2006 to consider Lodi Tourism Business Improvement
District levy of proposed assessment for fiscal year 2006 and confirmation of
Annual Report.**

On March 16, 2006, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, to consider Lodi Tourism Business Improvement District levy of proposed assessment for fiscal year 2006 and confirmation of Annual Report.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 16, 2006, at Lodi, California.

ORDERED BY:

**SUSAN BLACKSTON
CITY CLERK, CITY OF LODI**

ORDERED BY:

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

A handwritten signature in black ink, appearing to read "Dana R. Chapman", is written over a horizontal line.

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK



DECLARATION OF POSTING

PUBLIC HEARING on March 29, 2006 to consider Lodi Tourism Business Improvement District levy of proposed assessment for fiscal year 2006 and confirmation of Annual Report

On Friday March 17, 2006, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider Lodi Tourism Business Improvement District levy of proposed assessment for fiscal year 2006 and confirmation of Annual Report.

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 17, 2006, at Lodi, California.

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK



DANA R. CHAPMAN
ADMINISTRATIVE CLERK

NOTICE OF PUBLIC HEARING

RESOLUTION NO. 2006-43

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE
LODI TOURISM BUSINESS IMPROVEMENT DISTRICT 2006 ANNUAL
REPORT; DECLARING ITS' INTENTION TO LEVY ANNUAL
ASSESSMENT, AND ESTABLISHING PUBLIC HEARING DATE

=====

WHEREAS, the Lodi Tourism Business Improvement District was established October 20, 2004, by Council adoption of Ordinance No. 1753, and as amended by Ordinance 1756; and

WHEREAS, the Annual Report as required by Streets and Highways Code §36500 et seq., has been submitted to the Council by the Board of Directors of said improvement area.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

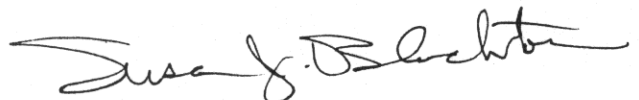
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3. It is the intention of the City Council to levy and collect assessments within the Lodi Tourism Business Improvement District for calendar year 2006 (the Area's fiscal year).
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5. At the time of the public hearing, written and oral protests may be made. The form and manner of protests shall comply with Streets and Highways Code §§36524 and 36525.

Dated: March 15, 2006

=====

I hereby certify that Resolution No. 2006-43 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 15, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, and Mounce
NOES: COUNCIL MEMBERS – None
ABSENT: COUNCIL MEMBERS – Mayor Hitchcock
ABSTAIN: COUNCIL MEMBERS – Beckman



SUSAN J. BLACKSTON
City Clerk

Lodi Tourism Business Improvement District Advisory Board

Members:

Tabitha Freytag
Wine and Roses Country Inn
2505 W. Turner Road
Lodi, CA 95242
(209) 334-6988

Beth Kim
Comfort Inn
118 N. Cherokee Lane
Lodi, CA 95240
(209) 367-4848

Sonny Patel
Wine Country Inn
607 S. Cherokee Lane
Lodi, CA 95240
(209) 368-2707

Sunil Yadav
Modern Motor Lodge
1050 S. Cherokee Lane
Lodi, CA 95240
(209) 333-8844

Mary Wallace
Frames and Fine Things
18 W. Pine Street
Lodi, CA 95240
(209) 333-1246

Kelli Mettler
Lodi Conference and Visitors Bureau
2545 W. Turner Road
Lodi, CA 95242
(209) 365-1195

Betty Hansen
Jewel Fine Wines
3750 E. Woodbridge Road
Woodbridge, CA 95258
(209) 340-8521

Liaison:

Jim Krueger, Finance Director
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910
(209) 333-6761

Also mail agendas to:

Nancy Beckman, Executive Director
Lodi Conference and Visitors Bureau
2545 W. Turner Road
Lodi, CA 95240
(209) 365-1195

one
3/16/06
Mailing List



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Joint Meeting of the Lodi City Council and Redevelopment Agency to Discuss and Provide Direction to Staff Regarding Introduction of Ordinance to Limit Lodi's Use of Eminent Domain (through the City of Lodi or the Redevelopment Agency) to Acquisition Property that will be put to a Municipal Use.

MEETING DATE: March 29, 2006 Special Joint Meeting of Lodi City Council and Redevelopment Agency

PREPARED BY: City Attorney

RECOMMENDED ACTION: Discuss prospect of disabling City and the Redevelopment Agency from engaging in Eminent Domain for purpose of sale to a private party and provide direction to Staff as appropriate.

BACKGROUND INFORMATION: Council directed staff to present a proposed ordinance restricting the use of eminent domain. A draft is attached. The draft is based on a bill (SCA 15 as most recently amended) pending in the California Legislature with some significant modifications in order to address the concerns that staff perceives with the bill. I have also attached a version reflecting how SCA 15 has been amended as it was passed through the legislature.

SCA 15 requires that all property that is taken by Eminent Domain be used exclusively by a public entity. The exclusive use provisions have recently been amended to allow rentals to non-profit entities. Previously it only allowed exceptions for entities regulated by the PUC and for minor incidental uses such as news racks and shoeshine stands. SCA 15 requires that any property that ceases its exclusive public use be offered back to the original owner at its current market price.

There are several examples of private uses of Lodi government property that would have been caught up in SCA 15's former restrictions. Had the city used its condemnation powers to acquire Hutchins Street Square (Lodi Memorial Hospital's Adult and Youth Day Care Programs), Blakely Park (Boys and Girls Club), the parking structure (commercial space), the New Shanghai building (Lodi Adopt A Child), the Parks and Recreation Annex building (Jazzercise classes), any park facility (BOBS use, birthday party rentals, scouting groups), it would have been required to sell the property back to the original owner at the original purchase price. It is important to note that many of these facilities were not originally contemplated to be put to a private but never the less public benefit use. However, over time these uses came to be perceived as a higher and better use.

For that reason, I have made a provision for a sunset date upon which a change in use would no longer require a reverter to the original property owner. This change insures that the property is not taken for a sham public purpose but still allows flexibility as the Council's perception of the greatest public benefit changes over time.

FISCAL IMPACT: None.
FUNDING AVAILABLE: Not Applicable.

Steve Schwabauer, City Attorney

APPROVED: _____
Blair King, City Manager

SCA 15

JULY 13, 2005

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 19 of Article I thereof, relating to eminent domain.

LEGISLATIVE COUNSEL'S DIGEST

SCA 15, as amended, McClintock Eminent domain: condemnation proceedings.

The California Constitution authorizes governmental entities to take or damage private property for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. It also authorizes the Legislature to provide for possession by the condemnor following commencement of the eminent domain proceedings upon deposit in court, and prompt release to the owner, of the money determined by the court to be the probable amount of the just compensation.

This measure would ~~add a condition~~ provide that private property may be taken or damaged ~~by eminent domain proceedings~~ only for a stated public use ~~and only upon an independent judicial determination on the evidence that the condemnor has proven that no reasonable alternative exists~~. The measure would also require that the property be owned and occupied by the condemnor, except as specified, and used only for the stated public use.

This measure would also provide that if the property ceases to be used for the stated public use, the former owner, or a beneficiary or an heir ~~—~~, who has been designated for this purpose, would have the right to reacquire the property for ~~the compensated amount or~~ its fair market value ~~—, whichever is less,~~ before the property may be otherwise sold or transferred. *This measure would further require a county assessor, upon property being so reacquired, to appraise that property for purposes of property taxation at its adjusted base year value as had been last determined at the time the property was acquired by the condemnor.*

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

WHEREAS, This measure shall be known and may be cited as "The Homeowner and Property Protection Act"; and

WHEREAS, Eminent domain has been subject to widespread abuse in California, whereby local governmental entities have condemned property and transferred it, by sale, lease, or otherwise, to the control, management, or exploitation of private entities for private use and profit on the theory that generalized public benefits will flow therefrom; and

WHEREAS, The United States Supreme Court, in *Kelo v. City of New London*, ___ U.S. ___ (2005), has held that the United States Constitution does not prevent the transfer of property, seized through eminent domain, to private entities for private profit; and

WHEREAS, The rights guaranteed in the California Constitution are not dependent on rights guaranteed under the United States Constitution (Section 24 of Article I of the California Constitution), and the California Constitution should protect the property rights of Californians to a greater degree than does the United States Constitution; nor should the term "public use" in the California Constitution be construed as identical to that phrase as

employed in the Fifth Amendment to the United States Constitution;
and

WHEREAS, It is the intent of the Legislature that private property shall not be taken or damaged for the use, exploitation, or management of any private party, including, but not limited to, the use, exploitation, or management of property taken or damaged by a corporation or other business entity for private profit, as is currently permitted under the United States Constitution under *Kelo v. City of New London*, __ U.S. __ (2005); and

WHEREAS, It is not the intent of this amendment to prevent the rental of space in a government building or any other government-owned property for incidental commercial enterprises, including, but not limited to, gift shops, newsstands, ~~or shoeshine stands~~ *shoeshine stands*, and private nonprofit entities such as churches and other religious and civic organizations ; and

WHEREAS, This amendment shall apply only to condemnation actions that are completed after this amendment goes into effect; now, therefore, be it

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2005-06 Regular Session commencing on the sixth day of December 2004, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 19 of Article I thereof is amended to read:

SEC. 19. (a) Private property may be taken or damaged only for a stated public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. Private property may not be taken or damaged for private use.

~~—(b) Private property may be taken by eminent domain only for a stated public use and only upon an independent judicial determination on the evidence that the condemnor has proven that no reasonable alternative exists. Property taken by eminent~~

(b) Property taken by eminent domain shall be owned and occupied by the condemnor , or another governmental agency utilizing the property for the stated public use by agreement with the condemnor, or may be leased only to entities that are regulated by the Public Utilities Commission. All property that is taken by eminent domain shall be used only for the stated public use.

(c) If any property taken through eminent domain after the effective date of this subdivision ceases to be used for the stated public use, the former owner of the property or a beneficiary or an heir, if a beneficiary or heir has been designated for this purpose, shall have the right to reacquire the property for the ~~compensated amount or the~~ fair market value of the property ~~—, whichever is less,—~~ before the property may be otherwise sold or transferred. Notwithstanding subdivision (a) of Section 2 of Article XIII A, upon reacquisition the property shall be appraised by the assessor for purposes of property taxation at its base year value, with any authorized adjustments, as had been last determined in accordance with Article XIII A at the time the property was acquired by the condemnor.

(d) The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING TITLE 15, "BUILDINGS AND CONSTRUCTION" OF THE
LODI MUNICIPAL CODE BY ADDING CHAPTER 15.72 RELATING TO
EMINENT DOMAIN

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Title 15, "Buildings and Construction," of the Lodi Municipal Code is hereby amended by adding thereto Chapter 15.72 relating to Eminent Domain and shall read as follows:

WHEREAS, this ~~measure~~ **Ordinance** shall be known ~~and may be cited~~ as "The Homeowner and Property Protection Ordinance"; and

WHEREAS, Eminent Domain has been subject to ~~widespread~~ abuse in California, whereby local governmental entities have condemned property and transferred it, by sale, lease, or otherwise, to the control, management, or exploitation of private entities for private use and profit on the theory that generalized public benefits will flow therefrom; and

WHEREAS, the United States Supreme Court, in Kelo v. City of New London, ____ U. S. ____ (2005), has held that the United States Constitution does not prevent the transfer of property, seized through eminent domain, to private entities for private profit; and

WHEREAS, it is the intent of the ~~Legislature~~ **Lodi City Council** that private property shall not be taken or damaged for the use, exploitation, or management of any private party, including, but not limited to, the use, exploitation, or management of property taken or damaged by a corporation or other business entity for private profit, as is currently permitted under the United States Constitution under Kelo v. City of New London, ____ U.S. ____ (2005); and

WHEREAS, it is not the intent of this ~~amendment~~ **Ordinance** to prevent the rental of space in a government building or any other government-owned property for incidental commercial enterprises, including, but not limited to, gift shops, newsstands, ~~or shoe shine stands~~, and private nonprofit entities such as churches and other religious and civic organizations; and

WHEREAS, this ~~amendment~~ Ordinance shall apply only to condemnation actions that are completed after this Ordinance goes into effect.

(a) Property taken by eminent domain **by the City of Lodi** shall be owned and occupied by the condemnor or another governmental agency utilizing the property for the stated public use by agreement with the condemnor, or may be leased only to entities that are regulated by the Public Utilities Commission **or to private nonprofit entities**. All property that is taken by eminent domain shall be used only for ~~the stated~~ a public use **or as set forth above**.

(b) If any property taken through eminent domain after the effective date of this **Ordinance** ~~subdivision~~ ceases to be used for the stated public use, **within [insert time frame] years of its original acquisition**, the former owner of the property or a beneficiary or an heir, if a beneficiary or heir has been designated for this purpose, shall have the right to reacquire the property for the fair market value of the property, before the property may be otherwise sold or transferred.

(c) ~~The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.~~

SECTION 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2006.

SUSAN HITCHCOCK
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a Special Joint meeting of the Lodi City Council and Redevelopment Agency of the City of Lodi held March 29, 2006, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LODI AMENDING TITLE 2, "ADMINISTRATION AND
PERSONNEL" OF THE LODI MUNICIPAL CODE BY ADDING
CHAPTER 2.52.020 RELATING TO EMINENT DOMAIN

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Title 2, "Administration and Personnel," of the Lodi Municipal Code is hereby amended by adding thereto Chapter 2.52.020 relating to Eminent Domain and shall read as follows:

WHEREAS, this ~~measure~~ **Ordinance** shall be known and ~~may be cited~~ as "The Homeowner and Property Protection Ordinance; and

WHEREAS, Eminent Domain has been subject to ~~widespread~~ abuse in California, whereby local governmental entities have condemned property and transferred it, by sale, lease, or otherwise, to the control, management, or exploitation of private entities for private use and profit on the theory that generalized public benefits will flow therefrom; and

WHEREAS, the United States Supreme Court, in Kelo v. City of New London, ____ U. S. ____ (2005), has held that the United States Constitution does not prevent the transfer of property, seized through eminent domain, to private entities for private profit; and

WHEREAS, it is the intent of the ~~Legislature~~ **Lodi City Council** that private property shall not be taken or damaged for the use, exploitation, or management of any private party, including, but not limited to, the use, exploitation, or management of property taken or damaged by a corporation or other business entity for private profit, as is currently permitted under the United States Constitution under Kelo v. City of New London, ____ U.S. ____ (2005) by the Redevelopment Agency; and

WHEREAS, it is not the intent of this ~~amendment~~ **Ordinance** to prevent the rental of space in a government building or any other government-owned property for incidental commercial enterprises, including, but not limited to, gift shops, newsstands, ~~or shoeshine stands~~, and private nonprofit entities such as churches and other religious and civic organizations; and

WHEREAS, this ~~amendment~~ Ordinance shall apply only to condemnation actions that are completed after this Ordinance goes into effect.

(a) Property taken by eminent domain **by the Redevelopment Agency of the City of Lodi** shall be owned and occupied by the condemnor or another governmental agency utilizing the property for the stated public use by agreement with the condemnor, or may be leased only to entities that are regulated by the Public Utilities Commission **or to private nonprofit entities**. All property that is taken by eminent domain shall be used only for ~~the stated~~ a public use **or as set forth above**.

(b) If any property taken through eminent domain after the effective date of this **Ordinance** ~~subdivision~~ ceases to be used for the stated public use, **within [insert time frame] years of its original acquisition**, the former owner of the property or a beneficiary or an heir, if a beneficiary or heir has been designated for this purpose, shall have the right to reacquire the

property for the fair market value of the property, before the property may be otherwise sold or transferred.

(c) ~~The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.~~

SECTION 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2006.

SUSAN HITCHCOCK
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a Special Joint meeting of the Lodi City Council and Redevelopment Agency of the City of Lodi held March 29, 2006, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

Approved as to Form:

SUSAN J. BLACKSTON
City Clerk

D. STEPHEN SCHWABAUER
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Provide Direction with regard to a Request from Councilmember Mounce to Declare "Livable, Lovable Lodi" the Official City Motto.

MEETING DATE: March 29, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Council direction requested. A number of alternative courses of action exist including conduct additional research; or direct that "Livable, Lovable Lodi" be agendized for action as the Official City Motto, or take no action at this time.

BACKGROUND INFORMATION: Councilmember Mounce has requested that the City Council consider taking action to declare "Livable, Lovable Lodi" as the Official City Motto at the same time it considers taking action on the display of the National Motto, "In God We Trust". Consistent with past practice, staff has placed this request before the Council for direction.

According to the City Clerk, there is no record of the Council ever acting upon the motto or slogan of Livable, Lovable Lodi. This slogan has been used by the Chamber of Commerce in marketing materials since the 1970s. According to an article published in the Lodi News-Sentinel on Saturday, September 24, 2005, the slogan has been used in brochures dating to 1951. The referenced article is attached.

FISCAL IMPACT: Unknown at this time.

FUNDING AVAILABLE: Not Applicable

Blair King, City Manager

Attachment

APPROVED: _____
Blair King, City Manager

'Livable, Lovable Lodi' origin debate continues

By Jennifer Pearson Bonnett
NEWS-SENTINEL CITY EDITOR

A former Chamber of Commerce secretary remembers using Lodi's now-famous slogan, "Livable, Lovable Lodi" in brochures as far back as 1951.

Another caller to the News-Sentinel said she used the phrase in a speech during the '60s, and yet another gave credit to a former News-Sentinel columnist who worked here in the same decade.

Such was the response this week to news that no one could identify who coined the Lodi phrase. The slogan was named by a Bay Area company as No. 50 in a list of the top



Frank Johnson

50 city slogans in the nation.

Responses to Thursday's article came in via phone, via e-mail and even on foot.

The message that yielded the most information

may have been from Alvin Taylor of Lodi. Taylor recalled a conversation with the late Frank Johnson who, Taylor said, staked claim to the phrase. However, according to Taylor, the phrase got twisted through the years; it was originally "Lovable, Livable Lodi."

That was partly corroborated by Tom Bivins, who oversaw the chamber from 1970-1973. He said the slogan was approved by Johnson, then the chamber president, during that decade.

We were faced with the city ... not having a slogan.

Tom Bivins

But Bivins said it was he and a co-worker, John Ferriola, that first came up with the saying during a special project.

"We were faced with the city or

the chamber not having a slogan," Bivins said in an e-mail.

"The people were very friendly, so it was lovable. My wife and I were new residents, so we felt the power of the population and the friendliness of everyone."

At least three other callers told the News-Sentinel that Johnson used the phrase throughout the 1970s.

But Ruth Jones, the chamber secretary during the '50s, is sure she printed it in brochures to hand out to busi-



Patrick Patrick

nesses inquiring about Lodi. It told about the hundreds of miles of waterways nearby and the science of growing grapes.

Unfortunately, there are no copies

left, according to chamber president/CEO Pat Patrick, who coincidentally said Johnson once told him he first used the phrase.

"I don't remember when he said it, but he was the board chair in 1972."

Patrick did find a 1958 annual report that called the city "Livable Lodi." He added, "But there was no 'lovable'."

The notoriety of Lodi's slogan was announced Tuesday putting it in the graces of Hershey, PA's "The Sweetest Place on Earth" and Las Vegas' "What Happens Here, Stays Here."

Although a survey of 100 branding, marketing and advertising professionals listed "Livable, Lovable Lodi" as the 50th best city slogan in the entire nation, those Lodians interviewed this week couldn't be sure where it originally came from.

The city clerk had no record of its beginnings and a local historian could only guess it's been around at least 40, maybe 50 years. Mayor John Beckman was also stumped.

Without more hard evidence, it may be that mystery of Lodi's civic slogan will never be completely solved.

Contact City Editor Jennifer Pearson Bonnett at jenniferb@lodinews.com.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Provide Direction to Staff on Whether to Return with Legal Analysis of the Proposal to Display the National Motto, "In God We Trust" in the Council Chambers.

MEETING DATE: March 29, 2006 Special City Council Meeting

PREPARED BY: Steve Schwabauer, City Attorney

RECOMMENDED ACTION: That the City Council Provide direction to staff on whether to return with legal analysis of the proposal to Display the National Motto, "In God We Trust" in the Council Chamber.

BACKGROUND INFORMATION: On January 26, 2006, the City Clerk was contacted by In God We Trust America, a nonprofit group promoting the display of the National Motto, "In God We Trust" in every council chambers in California. Councilwoman Mounce requested that the request be agendized for council consideration. Consistent with past practice staff has prepared a brief report to allow Council direction before significant work is undertaken.

Stephen Schwabauer
City Attorney

APPROVED: _____
Blair King, City Manager

IN GOD WE TRUST



On July 30, 1956, President Dwight D. Eisenhower signed a law declaring "In God We Trust" the official motto of the United States. Fifty years later, the City of Lodi officially recognizes the historical significance of our national motto in our country's affairs.



Display Our National Motto in Every City Hall in America

January 24, 2006

Dear City Clerk:

In 2002, the Bakersfield City Council voted in favor of proudly and prominently displaying the national motto of the United States, "In God We Trust", in our Council Chambers at City Hall.

Since that time, I helped to initiate an organization called, "In God We Trust – America", and we have attained 501(c)3 non-profit status. Our mission is to encourage every City in California and across the United States of America to follow Bakersfield's lead. I am pleased to inform you that, as of January 2006, 14 cities have voted in favor of joining this important patriotic effort.

We would appreciate it if you would please forward the attached "In God We Trust – America" e-mail packet to each of the following officials in your city: Mayor, City Councilmembers, City Manager, and City Attorney.

Thank you.

Sincerely,

Jacquie Sullivan
Bakersfield City Councilmember
"In God We Trust - America", Founder / President

P.S. I welcome anyone interested in more information to contact me at (661) 834-4943 or via e-mail: jacquie@libertystar.net

We also have volunteers who will be making follow-up telephone calls.

IN GOD WE TRUST – AMERICA, INC.
P.O. BOX 11715 • BAKERSFIELD, CA 93389 • (661) 834-4943 • jacquie@libertystar.net
A non-profit 501c3 educational corporation ID# 2624857
<http://www.ingodwetrust-america.com>

CITY ATTORNEY
Virginia Gennaro



DEPUTY CITY ATTORNEYS
Alan D. Daniel
Allen M. Shaw
Robert M. Sherry

CITY OF BAKERSFIELD

OFFICE OF THE CITY ATTORNEY
1501 TRUXTUN AVENUE
BAKERSFIELD, CA 93301
TELEPHONE: 661-326-3721
FACSIMILE: 661-332-2020

July 16, 2004

Ms. Jacquie Sullivan, Council Member, Ward 6
1501 Truxtun Avenue
Bakersfield, California, 93301

RE: Patriotic Display of National Motto

Dear Council Member Sullivan and Interested Persons:

In 2002, the City Council of the City of Bakersfield, in the best interest of the citizens of the City of Bakersfield, decided to display the national motto ("In God We Trust") above the seal of the City of Bakersfield located in the Council Chambers. In addition, the Council added the phrase "e pluribus unum" below the same seal. Also, the Council established a "historical documents" display on the wall across from the City Clerk's Office. These actions were all taken by the Council to provide and encourage a spirit of national patriotism within the community.

The original consideration of these actions was a direct result of a concept proposed by Council Member Sullivan, which embodied the spirit of patriotism. While the public discussion which resulted seemed to center on the national motto terminology, the city Council's stated intent consistently has been to encourage patriotism. The quotation marks around the phrase "In God We Trust" were included to signify that the phrase was the national motto and not an entanglement with nor a promoting of religious activity. In furtherance of this intent, the City Council's inclusion of displaying the phrase "e pluribus unum," which reflects the unifying of many states into a national government, was again to signify that the display was to encourage national patriotism.

You inquired about the legal defensibility of the City Council's actions. While anyone can initiate litigation and assert various challenges to the Council's actions, the record of the City Council's discussions concerning this concept is clear that the City Council was not promoting or becoming entangled in religious activities, but was actively involved in promoting national patriotism. Nothing is 100% sure of being defensible, and when dealing with a constitutional challenge, there is an ever-changing legal case law climate which could, with minimal potential, cause the challenge to the City Council's actions to be successful. However, with the clear record, it is my opinion the ability of the City to advance and display obviously patriotic phrases and documents is constitutionally permissible, and the City arguably has a very defensible position in this issue. The non-existence of the filing of a claim or lawsuit by a citizen of the City of Bakersfield challenging the City Council's action is further evidence the City Council made clear its intention, and was not unconstitutionally entangling itself in promoting or fostering any religious activity.

Very truly yours,

A handwritten signature in cursive script, reading "Virginia Gennaro".
VIRGINIA GENNARO
City Attorney

The Constitutionality of the National Motto "In God We Trust"

- In September of 1814 during the British bombardment of Fort McHenry, Francis Scott Key composed the poem "Star Spangled Banner" of which one line of the final stanza is "And this be our motto: 'In God is our trust.'"
- In 1861 The Chief Justice Chase of the Supreme Court wrote the following in a letter to the director of the US Mint: "No nation can be strong except in the strength of God, or safe except in His defense. The trust of our people in God should be declared on our national coins."
- In 1866 Congress enacted legislation authorizing the inscription of the phrase "In God We Trust" to be placed on certain coins.
- In 1931 Congress passed the act that until today officially designates as the national anthem " the composition of the words and music known as the Star Spangled Banner .
- In 1955 Congress mandated the inscription of "In God We Trust" on all coins and paper currency.
- A 1956 Congress codified "In God We Trust" as the national motto. Thus, "In God We Trust" has remained our national motto since 1956.
- The United States Code itself contains religious references. For example, Congress has directed the President to " set aside and proclaim a suitable day each year as a National Day of Prayer, on which the people of the United States may turn to God in prayer and meditation at churches, in groups, and as individuals.
- By statute the Pledge of Allegiance to the Flag describes the United States as "one Nation under God". Likewise our National Motto, "In God We Trust" is prominently engraved in the wall above the Speaker's dais in the Chamber of the House of Representatives and is reproduced on every coin minted and every dollar printed by the Federal Government.
- The Judicial Branch also acknowledges the central role of religion in our society. All federal courts open sessions with the request that " God save the United States and this honorable Court .
- The Ten Commandments are posted in the US Supreme Court Chambers directly above the bench where the nine justices sit.





CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Provide direction with regard to a request by Councilmember Beckman to schedule a Town Hall meeting to receive public comment concerning alternatives to pay for PCE/TCE remediation.

MEETING DATE: March 29, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Council direction requested.

BACKGROUND INFORMATION: Councilmember Beckman has requested that the City Council consider hosting a "Town Hall" style meeting to hear solutions proposed by the public to fund remediation of PCE/TCE contamination other than the use of Water Fund revenues. Consistent with past practice, this request is placed before the Council for direction.

On September 21, 2005, the City Council held a Public Hearing and conducted a Protest Hearing to set water rates to pay for PCE/TCE remediation. The net cost to implement the remediation is budgeted at \$45.7 million. The adopted alternative provides for a series of stair-stepped rate increases. The estimated cost to absorb clean up costs through the General Fund would require a 7% reduction in current General Fund programs and services.

FISCAL IMPACT: Impacts of conducting a Town Hall meeting are unknown at this time.

FUNDING AVAILABLE: Not Applicable

Blair King, City Manager

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Provide direction with regard to a request by Council Member Beckman regarding amending the general plan to include a greenbelt area

MEETING DATE: March 29, 2006

PREPARED BY: Randy Hatch, Community Development Director

RECOMMENDED ACTION: Provide direction to staff with regard to a request by Council Member Beckman regarding an amendment the General Plan to designate a greenbelt area

BACKGROUND INFORMATION: Since the mid 1980's the City has been exploring the concept of a greenbelt beyond the south boundaries of the City for both agriculture protection and as a community separator. Efforts since 1999 involve the formation of a Task Force involving the City of Lodi, Stockton, and the County. Due to lack of inter-jurisdictional progress, the City established a separate Lodi Greenbelt Task Force in December 2003 and held at least 14 meetings. In fall 2004 a draft program to establish a greenbelt was presented.

Draft Program Summary:

- Minimum target area: runs between Highway 99 and I-5, ½ mile north and south of Armstrong Road
- Provide for a program that allows for a continuation of agricultural uses as currently provided in the County Zoning Ordinance. Additionally, allow the development of a limited amount of houses as follows:
 - One credit (unit) per 10 acres of ownership pro-rated to actual parcel size upon program adoption
 - One credit as above in 20 years
 - The use of a credit must take place within the target area
 - The maximum size of a parcel for a housing unit is ½ to 1 acre
 - Revise the Right-to-Farm Ordinance as recommended by the farming community
 - Provide for limited public improvements that promote the rural setting
 - Annex the entire target area and provide sewer and water service along Armstrong Road
 - Property Owner vote on the program

The Task Force met in November and December 2004 to discuss the draft program and try to reach consensus on a recommendation to City Council; however there was a group of affected property owners who were not supportive of the program and as a result, consensus on a recommendation was not reached. The Task Force requested that the property owners with concerns regarding the draft program develop a recommendation for a program that would be acceptable to them and the Task Force agreed to take a hiatus to allow the property owners time to develop their recommendation.

APPROVED: _____
Blair King, City Manager

In October and November 2005 the Task Force met to re-group and review a draft exercise as to how the draft program could be implemented. The Task Force also inquired as to the status of the property owner's alternative land plan. At the January 2006 meeting, a representative from the property owners indicated that progress had been made but the property owners didn't have a proposal to release. It should be noted that the inter-jurisdictional 2X2X2 Committee did meet in October 2005 to review the current status of greenbelt activities. No further meetings of that group were scheduled. Finally, in January 2006 the Council did ask staff to explore obtaining an economic analysis of land value and how the draft Task Force program could financially work. Final authorization to conduct such an economic analysis would come back to the Council for approval. Staff has preliminarily determined that such an economic analysis would cost approximately \$50,000. While useful the economic analysis would not move the greenbelt concept materially forward.

POSSIBLE ACTION: Staff has developed an option to move the greenbelt concept forward. The City could consider an amendment to the City's General Plan Diagram now which could designate the land ½ mile north of Armstrong Road from Planned Residential Reserve to Greenbelt/Agriculture. At the same time, the City could expand our General Plan area ½ mile south of Armstrong Road within the same east and west limits and designate this area for Greenbelt/Agriculture. This would be consistent with the area as proposed by the Greenbelt Task Force in their Draft Program and would show commitment by the City for the Greenbelt.

This action could be taken by the City with no request or concurrence by the property owners. The City, under State law, has the power to designate lands outside of City limits to a general plan designation which further the needs of the City and its goals and policies. The City could follow this general plan designation with a request to San Joaquin County Local Agency Formation Commission (LAFCO) for inclusion of this area within the Lodi Sphere of Influence. Again, no approval by the property owners is required, only possible annexation requires an affirmative vote of the property owners or registered voters.

Such an amendment to the General Plan would be subject to California Environmental Quality Act (CEQA) and an environmental document would need to be prepared. Such a document would be relatively simply since the general plan action (and potential Sphere of Influence inclusion) would not change any current rights or legal entitlement of the property. The current zoning for agriculture would be retained.

FISCAL IMPACT: The costs of a consultant to prepare the General Plan Amendment and CEQA document (Initial Study and Negative Declaration) would be approximately \$12,000. The cost to prepare an application to LAFCO for a Sphere of Influence Amendment is more variable and could range from approximately \$30,000. to \$55,000.

The costs for staff to prepare the General Plan Amendment would be less in dollar terms, approximately \$2,000. for the General Plan Amendment and an estimated additional \$5,000. for LAFCO application fees and required mapping costs for the Sphere of Influence Amendment.

FUNDING AVAILABLE: There is no funding source currently in the Community Development Department budget to cover the projected costs for either a consultant or for direct costs if staff prepared. While possible, having staff perform the work would affect our current workload and would result in noticeable delays to normal current planning work, include general customer service at the planning counter and on the telephone.

Ruby Paiste, Interim Finance Director

Randy Hatch
Community Development Director



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Provide direction with regard to a request by Councilmember Johnson to discuss the future use of the Maintenance Shop at Hutchins Street Square and its possible use as a Hospice facility.

MEETING DATE: March 29, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Council direction requested. A number of alternative courses of action exist including research, communicating with the Lodi Memorial Hospital, communicating with the Hutchins Street Square Foundation Board, no action, and others.

BACKGROUND INFORMATION: On February 15, 2006, Councilmember Johnson noted that the Hutchins Street Square Foundation Board minutes for the meeting of January 17, 2006 reflected a discussion of transforming the maintenance shop at Hutchins Street Square into a Hospice house. Councilmember Johnson asked that the Council review this proposal at a future Council meeting prior to the Foundation investing time and effort into the proposal. Consistent with past practice, staff has placed this request before the Council for direction.

The minutes for the January 17, 2006 Hutchins Street Square Foundation Board are attached.

FISCAL IMPACT: Fiscal impacts, if any, related to a Council discussion topic are unknown.

FUNDING AVAILABLE: Not Applicable

Blair King, City Manager

Attachment

APPROVED: _____
Blair King, City Manager

MEETING MINUTES
Hutchins Street Square Foundation
Tuesday, January 17, 2006

The regularly scheduled meeting of the Hutchins Street Square Foundation Board was held in Crete Hall and called to order at approximately 12:20 p.m. by Vice Chair Jeff Kirst.

Members present: Bud Adams, Daphne Felde, Julia Gillespie, Jeffrey Kirst, Charlene Lange, and Phil Lenser; Senior Advisors: Dr. Norman King and Oneta Lange

Staff: Director Tea Silvestre, and Administrative Secretary Linda McEnerney

Absent: Brad Alderson, Dennis Bennett, John Ledbetter, Carol Meehleis, and Chuck Simpson; and Senior Advisor Bruce Burlington

The following items were discussed:

1. **Minutes** – The December 6, 2005, minutes were approved as presented.
2. **Fundraising**
 - a. 2005 Gala – A final budget was provided showing a profit approximately \$25,000 less than last year. There is a discrepancy in the amount showing as the purchase price for the Spanish Dinner live auction item and the amount actually realized as there were fewer participants than originally thought. Charlene Lange said she'd work that out with the Foundation's Administrative Secretary and that she didn't expect many expenses. Staff has been unable to account for 7 of the 37 centerpieces available for purchase at the Gala. Pictures taken by Mary Sibert Photography were circulated.
 - b. Pinocchio final budget figures show a net profit of \$1,120.
 - c. Joni Morris and the After Midnight Band – Tea advised the Board that the Lodi News Sentinel has advertising copy for the remaining shows in the 2005-06 season series and has been asked to contact the Foundation's Administrative Secretary for placement dates. The Board is happy with the format and placement currently being used. Ads with the Stockton Record were discontinued due to cost and lack of effectiveness. Jeff Kirst and John Ledbetter will work out handling of the announcing for this show and discuss with the Board whether or not to continue the Corporate Members' bar as it was not used during the first two shows of the series. The Board-manned information table and donation box in the rotunda will be discontinued for the remaining performances this season as it wasn't well-received by the public.
 - d. Hotel California – see c. above.
Tea reported ticket sales to date of approximately 450 for Joni Morris and approximately 300 for Hotel California.
 - e. Memberships/Donation/Memorials/Bricks – Tea pointed out the increase in memberships for December and attributed it to the request-for-donation letter worked up by the Fund Raising Committee and sent out in December.
3. **Director's Report**
 - a. Nonprofits' Insurance Alliance of California provided a quote for coverage of on- and off-site Foundation-sponsored events (based on average number of events per year) at \$990 without terrorism coverage or \$1,001 with terrorism coverage. Board's decision was to go with the quote including the terrorism coverage. Tea will contact the Nonprofits' Insurance Alliance of California to confirm that there is no deductible and to request a full copy of the policy.
 - b. A copy of an article on getting members/donors to renew was provided to the Board for information.
 - c. A copy of the Council Communication on rental fee adjustments, scheduled for the January 18, 2006, City Council meeting, was included for the Board. The proposal, to offer renters discounts Sunday through Wednesday (our slow days), was recently presented by Tea to the City's Budget Committee for review. Proposed discount would bring Delta Blood Bank's fee in line with the fees paid by others.
 - d. Maintenance Issues
 - i. The main motor on the pool pack went out and is being replaced today (approximate cost \$2,000) which could cause other worn parts to die. Donnie is looking for info on costs.
Leak by Kirst Hall and Cottage Room is being watched. The drain pipe was moved in the hope of solving the problem.
4. **Other Business** – During the course of the meeting, the following items were discussed:
 - a. A community center is being discussed for DeBenedetti Park as part of the Frontier development in the Lower Sacramento Road and Harney Lane area.
 - b. Char asked if staff had received any inquiries about our pool after the announcement of the closing of the Easter Seals' pool. No inquiries have been received but Tea said the Easter Seals' pool was kept warmer which could prevent their clients' use of the HSS pool. Increasing the temperature of our pool would require increased cleaning.
 - c. Char asked that relocation of the Foundation's Administrative Secretary to an area with more work space and less chance of overlap with City (departmental) work be put on a future agenda for discussion

- d. Maintenance Shop – Char would like to see the Foundation finish the corner where the shop is located and possibly partner with Hospice of San Joaquin to turn the shop into a hospice house similar to the one in Stockton. She feels it fits the Square's mission, would be beneficial to Lodi's large senior population, and proposed having a couple of Hospice representatives talk to the Foundation Board. It's likely that Stockton's plans, done by Wenell Mattheis Bowe, could be used by Lodi. It's also possible that Hospice would run the Lodi facility once it's built by Foundation. Guesstimated cost of \$1,000,000 with possible City cooperation with fees and hookups. Space would need to be left for maintenance. Basketball court would probably be taken up by parking. Jeff asked that this be discussed at a future meeting when more of the Board are present. Possible use of Community Development Block Grant (CDBG) funds. Char will ask more questions and bring info to a future meeting.

- e. The Board presented Tea with parting gifts as her last day on staff will be Wednesday, January 25, 2006.

Tea told the Board how much she has enjoyed her work at Hutchins Street Square.

At 12:45 p.m., the meeting was adjourned to a closed session of Foundation Board members only. **The next regularly scheduled Board meeting will be Tuesday, February 7, 2006, at 12 noon in Thomas Theatre.**

Reviewed by Tea Silvestre
Linda McEnerney
Administrative Secretary

cc: City Manager }
City Council } all via email
City Clerk }



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Consider Request of Vice Mayor Johnson for a Council Sponsored Quarter-Cent Sales Tax Increase to Pay for Public Safety and/or Open Space Acquisition.

MEETING DATE: March 29, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Take no action at this time.

BACKGROUND INFORMATION: At the November 8, 2005 Shirtsleeve Meeting, Council Member Johnson requested that the Council consider sponsoring a quarter-cent sales tax increase to fund public safety and/or open space acquisition, presumably on the November 2006 election. This item is before the City Council to provide direction to staff. It is recommended that no action be taken at this time.

A November ballot initiative sponsored by the City Council would compete with the Citizens' Fire and Facilities Sales Tax Initiative already qualified for the November ballot. Although a strong argument can be made for the need for additional financial resources, (a "white paper" was presented to the Council in March), the reason and/or purpose for additional revenue has not been made absolutely clear to allow voters to make a fully informed decision. More time is needed to refine the message. A premature ballot initiative may be unsuccessful and could delay a subsequent ballot initiative.

Nevertheless, if the Council wishes to place a tax measure on the ballot for November 2006, the Council should take action in May or June. July 5th is the last regular meeting for the Council to take action to place a measure on the ballot. Attached is the Preliminary Election Calendar prepared by the City Clerk's office. It is a working draft and subject to change.

FISCAL IMPACT: The cost to place the question on the ballot is approximately \$15,000. Revenue to be realized from a ballot initiative, if successful, depends upon the type of tax in question. It is estimated that a quarter cent sales tax will generate approximately \$2.3 million annually in new revenue if passed in 2006.

Blair King, City Manager

Attachment

APPROVED: _____
Blair King, City Manager

PRELIMINARY ELECTION CALENDAR November 7, 2006

(City Clerk's working draft -- subject to change.)

DATE(s)	DESCRIPTION	Elections/Government Code
May 1 <i>(suggested)</i>	Suggested last day to file petitions for citizens initiative measure (to allow 30 to 60 days to verify and certify to Council)	
May 17	Council adopts election resolutions: Calling Election Consolidate with County Candidates Statements - regulations Arguments & Rebuttals - regulations	EC 10002 / consolidate EC 10403 / 88 days EC 13307 / cand. stmt. 88 days
May / June	Suggested time for City Council to consider placing measure on ballot and direct City Attorney to draft measure, synopsis, and ballot question	Ballot question not to exceed 75 words
Late June	Publish notice of election to include: ➤3 Council seats ➤Synopsis of Measures: 1) Fire & Facilities Sales Tax Initiative 2) "Affirmation" of Low Income Discount Program ➤Deadline to file arguments & rebuttals ➤Direct City Attorney to write impartial analyses	
July 5 <i>(suggested)</i>	Suggested <u>last regular meeting</u> for Council to take action to place a measure on the ballot	
July 17 to August 11	Nomination Period	EC 10220 / 113 th to 88 th day EC 10224 / 88 day EC 13307 / format cand. stmt. EC 13309 / indigency EC 13311 / confidential GC 36503 / muni elect GC 87201 / FPPC

August 7 (suggested)	Last Day to file arguments with City Clerk	EC 9282 / 300 words EC 9283 / author names
August 7	Impartial Analyses on measures prepared by City Attorney to SJROV	EC 9280 500 word max
August 8 To August 28 (suggested)	10-day period for public inspection of arguments, measures, & analyses	EC 9295
August 11	DEADLINE to deliver measure (previously voted upon by Council) to SJROV	EC 9223 / print measure EC 10403 / 88 days
August 11	DEADLINE to submit names of Council Candidates to SJROV	EC 10403 / 88 days
August 12 to August 21*	Public examination period for candidates statements	EC 13313 / 10 day public review of cand. stmts.
August 16	*Extension of nomination period if incumbent has not filed on the last day of the nomination period	EC 10225 / 83 rd day EC 10407
August 16	Council can amend or withdraw measure until 83 rd day prior to election	
August 17	Randomized alphabet drawing by Secretary of State	EC 13112 (b) / 11:00 a.m. 82 nd day
August 17 (suggested)	Last Day to file rebuttals with City Clerk	EC 9285 / 250 words 10 days after Arg. Deadline
August 26 (suggested)	Publish candidates names in the random order they will appear on the ballot (Not later than 1 week before election)	EC 12110 / publish nominees GC 6060 / newspaper GC 6066 / 2x
September 11 to October 24	Write in candidates	EC 8600 EC 8601 / 57 th day – 14 th day EC 15351 EC 15352
October 5	1 st Pre-Election Campaign Statement	

October 9 to October 31	Absentee voter ballot applications	EC 3001 / 29 th to 7 th day EC 3006 / format EC 3200 / permanent
October 23	Last day to register to vote	EC 2106 / 18 yrs. EC 2107 / 15 days prior
October 26	2 nd Pre-Election Campaign Statement	
Within 24 hrs.	Late Contributions	
November 7	Election Day	EC 1000
November 8 to December 5	Canvass election returns (28 days)	EC 10263 EC 10403.5 (d) EC 15301
December 6	Council Reorganization Meeting	LMC 2.04.070
January 31, 2007	Semi-Annual Campaign Statement	



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Discuss and provide direction to staff regarding coordination of requests by Council Members to place items on the agenda

MEETING DATE: March 29, 2006 (Special Meeting)

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council discuss and provide direction to staff regarding how best to coordinate requests by Council Members to place items on the agenda.

BACKGROUND INFORMATION: This item appears on the agenda at the request of Mayor Hitchcock to allow Council an opportunity to discuss how staff can most efficiently and fairly respond to requests from Council Members to place items on City Council agendas. In addition to the numerous agenda items placed on City Council agendas by staff, there have been a number of requests by Council Members to discuss various matters. The length of Council meetings is typically four to six hours and there have been many instances where agenda items have had to be carried over to the next meeting, due to a lack of time. Members of the public have expressed frustration and fatigue at having to wait extended periods of time to speak on an item of interest to them. Below, for informational purposes, are regulations which pertain to placing items on City Council agendas or speaking on non-agenda items during a meeting.

Lodi Municipal Code Section 2.04.180, Preparation of Agendas, Matters may be placed on the agenda for consideration by request of 1) any member of the City Council, 2) the City Manager, 3) the City Clerk, and 4) the City Attorney. Any reasonable request by any person named in this section shall be honored, subject to the City Manager's discretion as to the preparation of accompanying staff reports.

City Council Protocol Manual, Section 6.3m, Council Comments on Non-Agenda Items, Council Members may make comments on any non-agenda item. Comments are generally for informational purposes or to request a future report on a matter; it is not intended for detailed discussion of an item or for action.

California Government Code Section 54954.2 (a) (2), No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

FISCAL IMPACT: None.

FUNDING AVAILABLE: N/A

Susan J. Blackston
City Clerk

APPROVED: _____
Blair King, City Manager